

## **FLOOD CONTROL ADVISORY BOARD**

### **MINUTES**

April 25, 2001

The monthly meeting of the Flood Control Advisory Board was called to order by Chairman Patel at 2:01 p.m. on Wednesday, April 25, 2001.

**Board Members Present:** Hemant Patel, Chairman; Shirley Long, Vice Chair; Mike Saager, Secretary; Scott Ward; Tom Callow, Ex Officio; Paul Cherrington, Ex Officio.

**Board Members Absent:** Melvin Martin.

**Staff Members Present:** Mike Ellegood, Chief Engineer and General Manager; Julie Lemmon, General Counsel; Tom Johnson, Deputy Chief Engineer; Dick Perreault, CIP/Policy Branch Manager; Russ Miracle, Planning Branch Manager; Michael Alexander, Management Analyst; Barbara Hummell, Contracts Manager; Lynn Thomas, Floodplain Management Branch Manager; Joe Young, Chief Financial Officer; Kathy Smith, Clerk of the FCAB; Monica Ortiz, Administrative Coordinator.

**Guests Present:** Roger Baele, David Evans & Assoc.; Ed Fritz, MCDOT; Erich Korsten, Town of Carefree; Mayor Ed Morgan, Town of Carefree; Tim Morrison, HDR Engineering; Jonathan Pearson, Town of Carefree; Jerry Zovne, Parsons Corp.

#### 1) APPROVAL OF THE MINUTES OF THE MEETING OF MARCH 28, 2001

**ACTION:** It was moved by Mr. Cherrington and seconded by Ms. Long to approve the minutes as submitted. The motion carried unanimously.

#### 2) CAREFREE TOWN CENTER DRAINAGE IMPROVEMENTS PROJECT

Russ Miracle, Planning Branch Manager, presented Resolution FCD 2001R008, which authorizes the District to negotiate IGA's with the Town of Carefree and others, as appropriate, for cost sharing this Project and to include funding in this fiscal year and future fiscal year budgets.

The Resolution addresses the flooding within the Town Center, which resulted in damage to existing commercial buildings. Total cost estimates for the project are \$1,144,000.

Staff recommended that the Flood Control Advisory Board approve and recommend that the Board of Directors adopt Resolution FCD 2001R008.

Discussion:

*Patel:* Is there already an existing roadside ditch system in place, or will all those have to be developed?

*Miracle:* There are existing channels throughout the area. The road crossings are inadequate. During storm events, I'm told these roads become inaccessible and access to the area is one of the concerns.

*Patel:* How do we cross Cave Creek Road – will there be a culvert crossing there as well?

*Miracle:* The storm drain will cross to the north.

*Callow:* Did I understand the total project cost is \$1.1 million?

*Miracle:* That's correct.

*Callow:* That just seems like an awful lot for your money there.

*Miracle:* And the District is paying half.

*Mr. Patel asked if anyone from the Town would like to speak on this issue.*

*Ed Morgan, Mayor, Town of Carefree:* We just want to thank you kindly for your consideration of this project. The Town of Carefree would be most appreciative if you would participate.

**ACTION:** It was moved by Mr. Callow and seconded by Mr. Cherrington to approve staff recommendations. The motion carried unanimously.

3) MIDDLE NEW RIVER PROJECTS

Staff requested that this item be continued to a later date. The District is still working out several details with the City of Peoria.

**ACTION:** It was moved by Mr. Callow and seconded by Mr. Cherrington to continue this item to a later date. The motion carried unanimously.

4) CONSTRUCTION PROJECT UPDATE

Tom Johnson, Deputy Chief Engineer/Planning & Project Management Division Manager, gave an update on five construction projects that are either under construction or that have just been completed. The projects reviewed included: Santan Phase III, Southeast Phoenix Regional Basin, Golden Eagle Park Dam, Phoenix Rio Salado, and Osborn Road Storm Drain.

Discussion:

*Cherrington:* What is the capacity of the low flow channel?

*Johnson:* I believe it's 12,000 cfs. The idea is to move about a two-year storm flow through there. Anything more than that will flow outside of the low flow channel, pond up, and then flood throughout the main river channel area.

*Patel:* Is the design done for the ultimate project?

*Johnson:* The design is totally completed for the low flow channel. I'm not quite sure if the Corps and the City of Phoenix have completed all the ancillary components to that.

*Patel:* If you were in touch with that project, it would good for us to get to see it. It's such a big project; it would be nice to actually see what is going to get constructed. So far, we've just seen little concept drawings.

*Johnson:* You've seen the flood control bits and pieces. We can bring back to you either the renderings or some slides that show the big picture and what it will look like. What we could do, if the Advisory Board is interested, is when we start on the second phase we take a tour of the project.

*Patel:* It's a very large-scale project, so it's going to be a big deal.

*Johnson:* Total project cost is about \$80 million. The low flow component of the Flood Control District component is about 20% of that.

*Ward:* What type of amenities is the City of Phoenix going to install?

*Johnson:* The general concept is trails, wetlands, and lakes along the area. Park-like setting, picnic areas, biking, walking, etc.

*Ward:* Much like we see in Indian Bend?

*Johnson:* Something like Indian Bend to the extent that it's very people friendly, but it won't be green. There will be wildlife habitat and ponds designed into the project.

*Callow:* I think it's classified as a river restoration, back to a more natural look.

*Ellegood:* Over the past several years, the District's cost growth during construction has been about 1.7% of the original bid price, which is very low for a public works project. We've had two of them this year where that has been exceeded substantially, both for completely unforeseen conditions. One being the Rio Salado Project with the trash in the river and that resulted in about a 20% increase. The second was the Osborn Road Storm Drain, partially because of unknown utility conflicts and partially because the City of Scottsdale asked us to do some things, which we were able to accommodate.

**ACTION:** No action was required – for information and discussion only.

## 5) DEFINITION OF FINANCIAL TERMS, FY 2002 BUDGET, AND QUARTERLY BUDGET REPORT

Michael Alexander presented information on the following three issues: 1) definitions of the expense categories and common use at the County; 2) status of the FCD 2002 budget; and 3) status of the 2001 actual results through the third quarter.

### Discussion:

*Ward:* Can you explain the definition of fringe benefits?

*Alexander:* There are two pieces to the fringe benefits – there is a variable portion and a fixed portion. The variable portion is primarily concerned with medical and dental expenses. The fixed portion is retirement and a number of other rather material items.

*Ward:* Who approves the fringe benefits, both the health benefits and the other benefits. Is that something that you do, Mike?

*Ellegood:* No, our County Board of Directors approves this. Our fringe benefits package is identical to other County departments and is all negotiated as part of the package. Some of the things are established statutorily, such as the retirement system. Some of it is a little more negotiable.

*Ward:* What I was getting to is it isn't things like trips or cars, right?

*Ellegood:* We have no benefits like that. If we go on trips, it's strictly official travel business. There are no cars that are personally assigned. Every vehicle is used for official business and we need to be able to justify vehicle use for that.

*Alexander:* Both the fixed and the variable portion for benefits are given to us at the beginning of each budget cycle by Maricopa County's Office of Management & Budget (OMB). It is not a number that the FCD develops internally.

*Ward:* In regards to salaries, how do we compare to other government or municipalities in other states and counties?

*Ellegood:* For the last four years we've made a very concerted effort, and probably one of my highest priorities has been to bring our salaries to something that is comparable so that we can attract and retain a qualified work force. We go through a salary study every year, an exercise we

refer to as broadbanding. We start in July or August and use data from American Society of Professional Engineers, American Society of Civil Engineers, Cities of Phoenix, Mesa, Chandler, and other major cities. We gather some data from outside the region, but usually we find that regional adjustments are such that you can't really make a direct comparison very well. We take each person's position and we look at that person's performance, responsibilities, etc. to try to compare them with what they would be paid if they were in the private sector as well as working for some of the municipalities and then adjust it. Over the past several years, our average salary has gone up about 4.5%. But we found in several of our technical professions – engineering in particular and also in our IT group – salaries in those technical specialties have accelerated beyond the 4.5%, but on average it's been about that. Usually the exercise takes so long that by the time salaries finally come out, which is usually in December or January, our data is a little old, so we are always catching up. On balance, we've had good support from the remainder of the County.

*Patel:* How are these operating budget services procured? I'm aware that the engineering services is from a professional qualification base, but the planning and the other consultant and even the software, how does all that procurement occur?

*Ellegood:* The planning is done through our Article 5 Procurement, same as any professional services. The software is normally an Article 3, which is regular services and they're procured through our County Materials Management – typically cost-based procurement.

*Patel:* So it is competitively priced?

*Ellegood:* Yes.

*Patel:* Then we pay for those procurement services through our provided share of the Inter-County charges?

*Ellegood:* That is correct – they're part of the ISF Inter-County service fund procurement, same as we do for Human Resources and Office of Management & Budget, it's just a pro-rata share. The actual cost of a contract for software would be borne completely and directly by us, if indeed they're responding to a direct need of ours.

*Ward:* Why was there a \$5 million reduction? Was that cost because there wasn't the money?

*Ellegood:* The original budget that was submitted represented what we felt our needs were. Subsequent to presenting it to this body and receiving your approval, we got further direction from OMB that they would not accept any budget that would indicate or show revenue in excess of \$45 million. This was a result of some negotiations and agreements that we developed in late 1997. From direction by OMB, we went back and revised this figure. We then negotiated this and there were a few items that we were able to get them to concede to raise our \$45 million to \$45.5 million. An objective of ours has been to reduce our carryover every year. We wanted to reduce that to reflect our commitment to the taxpayer. We've made an effort to reduce the carryover and reduce it in such a way that the excess would be put into the ground as capital projects while we still maintain fiscal responsibility and tight control over our operating and maintenance budgets. We need about \$11 million at the start of the year, simply for cash-flow reasons, because our tax revenues will not start coming in until the fiscal year is three or four months under way. The net impact that we are going to see, particularly with our client cities, is that we are not going to have revenue in the bank to be able to meet some of their needs. Traditionally, every year a new and unrecognized need of some kind will come up. There could be a flood event like we had in Aguila that needed money, there will be some opportunities like what occurred a few years ago with the City of Phoenix where land and property suddenly became available and we had to move on it. Our ability to have that flexibility is being reduced somewhat now. On a larger issue, you've seen and heard about our Dam Safety Program. We anticipate that this Program is going to take a substantial amount of revenue in excess of \$45 million annually as we move into that Program. We've prepared a presentation for our Board of Directors and are currently scheduled to make this presentation on August 6 to outline what we

see our future needs are going to be. We are going to need some kind of relief from that \$45 million annual cap that we agreed to several years ago.

*Ward:* I think you know the foundation of my question. You and I met with Fulton Brock directly to discuss cost sharing with these other municipalities. Being on this Board and representing you and the County, I think it's more and more imperative as your funding starts to diminish – you want to keep the quality of your team and want to keep doing these projects – that we go to the other municipalities and ask them to cost share.

*Ellegood:* Certainly we fully agree with that. I have strong personal feelings that cost share is important. At the same time, the municipalities are strapped as well. They have limitations.

*Ward:* So it's really a juggling act of which projects you attack based on protection vs. monies they have?

*Ellegood:* This is correct. We've got about \$100 million worth of projects that are sort of in this hopper. When funds become available, we'll go in and fly what makes sense or priorities change we go in and rearrange it. Every year we go through the prioritization process in which we take all the projects in the plan and in the hopper and try to rearrange priorities.

*Mr. Ellegood asked Dick Perreault if he would like to add anything.*

*Perreault:* We've currently got a backlog of over \$100 million that has been submitted by our client cities that has been prioritized. So they are on the list waiting for us to get to it. Obviously, the availability of the funds is one of the things we have to address, the other things are getting the agreements with our partners and working out the accommodations. We are seeing now that we are moving out of the more urbanized areas into the periphery areas trying to get ahead of the growth. Finding partners in those areas are more and more difficult and some of the cities are still focussing on their more developed areas, so there is a little bit of cross purpose here in working these things out. As Mr. Ellegood has mentioned in the past, we are accelerating our planning program and are identifying more and more projects as we are getting out into the undeveloped areas. The funding problem is not going to go away, it's going to get worse as we go on. Within a few years, we are going to start having our Dam Safety Program's remedial work coming on-line, which will probably be a very high priority for us and without federal or state funding, we're not seeing a lot of partners stepping up willing to help us on those programs.

*Callow:* And guess which governmental body gets blamed for increase in taxes. The way the system works, the assessed evaluation goes up each year, our revenue stream here at the FCD is held constant and as the actual tax rate that is collected for the Flood Control District goes down, funds available for other County purposes go up. If you turn to the cities and say 'you have to make up the difference,' the cities then have to turn around and raise the taxes. So the cities are raising the taxes rather than the County, and they take the heat.

*Ward:* Mike, is there any way of going to the County Supervisors and lobbying for more money?

*Ellegood:* Yes there is. At this meeting that we plan to have on August 6, we want to lay the groundwork for that. I think that at the appropriate time, it's probably appropriate for me to ask you who represents each of the supervisory districts to talk to the individual you represent, discuss the issues and encourage their support. I'm not there yet, but I think it has to happen. I fully agree with Mr. Callow's analysis. Each elected official, regardless of whether they're state, local, or federal likes to take credit for reducing taxes. What you end up doing is basically shifting costs back and forth. Ultimately we've got to provide protection for the citizens.

**ACTION:** No action was required – for information and discussion only.

## 6) COMMENTS FROM THE CHIEF ENGINEER & GENERAL MANAGER

Mike Ellegood referenced last month's meeting of the Floodplain Review Board in which Rockland Materials presented a case for being allowed to continue to operate a sand and gravel

mine in the Gila River. Subsequently, Rockland Materials took the FCD to court and requested a temporary restraining order and several other things. Mr. Ellegood asked District Counsel, Julie Lemmon, to apprise the Board on the results of the court action.

Ms. Lemmon indicated that the Board members had in front of them a copy of the Order from Judge Daughton, which was his ruling on Rockland's request for a Temporary Restraining Order. He ruled that the District clearly had jurisdiction over Rockland Materials and that they had not met their burden of proof of showing that the District had been arbitrary or capricious in its handling of their appeal and also their lack of application to the District. Because Rockland had asked for the Temporary Restraining Order, they proceeded first as they had the burden of proof with the judge to show that the program was being unlawfully applied to them and also that they were being treated arbitrarily or capriciously. There were a number of other sub-issues as there always are in legal proceedings. They filed a complaint and the District answered and moved to dismiss on a large number of grounds including that they had not filed a claim, which is required by state law. The judge ruled on just the two items shown on the copy of the Order. At this point, the District – not wanting to again have them make a motion of some sort – filed a request for an injunction to restrain them from mining in the river. The hearing has been set for May 8 and David Benton will represent the County and Ms. Lemmon will assist him. This will be an evidentiary hearing to show that they need to cease and desist their operation until such time as they have a permit and come into compliance with the law. Ms. Lemmon noted that District staff did a wonderful job – Mike Ellegood and Lynn Thomas both testified. Mr. Ellegood added that the District had excellent counsel – David Benton and Julie Lemmon represented the District in a very professional manner.

Mr. Saager questioned if Rockland Materials would be coming before this Advisory Board again. Ms. Lemmon responded that Rockland actually filed an intent to appeal the judge's ruling to the Court of Appeals and also stated that they were going to come back to the Review Board, but it was on the same basis, so Ms. Lemmon does not believe they can do that. Ms. Lemmon further indicated that they were going to appeal the Review Board's decision last month to the Board of Directors, which would be appropriate for them in terms of the administrative law. Ms. Lemmon does not think the Advisory Board should have another hearing, but cannot say 100% that that won't happen. Mr. Ward inquired as to Rockland Material's agenda and questioned why he doesn't comply like other citizens have to and do the research necessary to get a permit. Ms. Lemmon indicated that she does not know why and stated that it would not be appropriate for her to comment further. Mr. Ellegood speculated that Rockland has several contracts with construction operations dealing with the power plants in the west valley. Rockland claimed that they weren't aware of the regulation before they started their operation. Mr. Ellegood suspects that they find themselves in a squeeze where they have contracts they have to deliver on and no means to do it.

Mr. Ellegood noted that there were some questions that came out of the last FCAB meeting, particularly during discussions about participation with La Paz County. There were questions about the population of Salome, Wenden, and Aguila. Mr. Ellegood indicated that as near as he could tell the population in Salome is about 1,000, Wenden is about 500, and Aguila is about 1,500 with about 500 seasonal workers. Mr. Ellegood further noted a question that was asked about what it would cost to complete the floodplain delineation and develop a drainage master plan for La Paz County. It's estimated that the study effort in La Paz County is probably going to be about \$400,000. The District has made that known to La Paz County and the state and will wait to see what they want to do with that information.

Mr. Ellegood indicated that Mr. Saager asked about the District's interaction with Pinal County and also asked if he had a chance to talk with Mr. Tim Bray. Mr. Ellegood explained that he has not because he doesn't know Mr. Bray and asked Mr. Saager to help facilitate a meeting with him if there is some value to doing so.

Mr. Ellegood informed the Board members that he will not be at the June FCAB meeting and that Tom Johnson will be acting as the Chief Engineer in his stead.

7) SUMMARY OF RECENT ACTIONS

Actions of the Board of Supervisors are included in the FCAB packet.

8) OTHER BUSINESS AND COMMENTS FROM THE PUBLIC

There was no other business or comments from the public.

The meeting was adjourned at 3:15 p.m. by general consent.

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Mike Saager  
Secretary of the Board

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Kathy Smith  
Clerk of the Board